

	<b>U.S. ENVIRONMENTAL PROTECTION AGENCY</b>  <b>Assistance Amendment</b>	<b>GRANT NUMBER (FAIN): 97002502</b>		<b>DATE OF AWARD</b> 03/16/2016	
		<b>MODIFICATION NUMBER: A</b>		<b>MAILING DATE</b> 03/23/2016	
		<b>PROGRAM CODE: V</b>			
		<b>TYPE OF ACTION</b> Revision: Scope & Increase		<b>PAYMENT METHOD:</b>	
<b>RECIPIENT TYPE:</b> Indian Tribe		<b>Send Payment Request to:</b> Las Vegas Finance Center FAX # 702-798-2423			
<b>RECIPIENT:</b> Nez Perce Tribe P.O. Box 365 Lapwai, ID 83540-0365 EIN: 82-0255928		<b>PAYEE:</b> Nez Perce Tribe P.O. Box 365 Lapwai, ID 83540-0365			
<b>PROJECT MANAGER</b> Julie Kane P.O. Box 365 Lapwai, ID 83540-0365 E-Mail: juliek@nezperce.org Phone: 208-843-7355		<b>EPA PROJECT OFFICER</b> Ricardo Solis 1200 Sixth Avenue, Suite 900, ECL-110 Seattle, WA 98101 E-Mail: solis.ricardo@epa.gov Phone: 206-553-2593		<b>EPA GRANT SPECIALIST</b> Kathy Tsing-Choy Grants and Interagency Agreements Unit, OMP-173 E-Mail: tsing-choy.kathy@epa.gov Phone: 206-553-4688	
<b>PROJECT TITLE AND EXPLANATION OF CHANGES</b> Nez Perce CERCLA Activities at the Portland Harbor NPL Site  This amendment increases Federal funding by \$16,000, extends the project/budget periods to 12/31/2018, and approves the workplan and budget submitted with the application dated 02/16/2016. All Administrative Terms and Conditions are updated and Programmatic Terms and Conditions #4 is updated.					
<b>BUDGET PERIOD</b> 01/05/2006 - 12/31/2018		<b>PROJECT PERIOD</b> 01/05/2006 - 12/31/2018		<b>TOTAL BUDGET PERIOD COST</b> \$138,000.00	
				<b>TOTAL PROJECT PERIOD COST</b> \$138,000.00	
<b>NOTICE OF AWARD</b>					
Based on your Application dated 01/06/2006 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$16,000. EPA agrees to cost-share 100.00% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$138,000. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.					
<b>ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)</b>			<b>AWARD APPROVAL OFFICE</b>		
<b>ORGANIZATION / ADDRESS</b> EPA Region 10 Mail Code: OMP-173 1200 Sixth Avenue, Suite 900 Seattle, WA 98101			<b>ORGANIZATION / ADDRESS</b> U.S. EPA, Region 10 Office of Environmental Cleanup 1200 Sixth Avenue, Suite 900 Seattle, WA 98101		
<b>THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY</b>					
<b>Digital signature applied by EPA Award Official</b> Paula VanHaagen - Acting Manager - Grants and Interagency Agreements Unit					<b>DATE</b> 03/16/2016

## EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$ 122,000	\$ 16,000	\$ 138,000
EPA In-Kind Amount	\$ 0	\$	\$ 0
Unexpended Prior Year Balance	\$ 0	\$	\$ 0
Other Federal Funds	\$ 0	\$	\$ 0
Recipient Contribution	\$ 0	\$	\$ 0
State Contribution	\$ 0	\$	\$ 0
Local Contribution	\$ 0	\$	\$ 0
Other Contribution	\$ 0	\$	\$ 0
Allowable Project Cost	\$ 122,000	\$ 16,000	\$ 138,000

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.802 - Superfund State Political Subdivision and Indian Tribe Site Specific Cooperative Agreements	CERCLA: Sec. 104(d)(1)	2 CFR 200 2 CFR 1500 40 CFR 33 and 40 CFR 35 Subpart O

[illegible]

## Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$0
2. Fringe Benefits	\$0
3. Travel	\$3,800
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$134,200
7. Construction	\$0
8. Other	\$0
9. Total Direct Charges	\$138,000
10. Indirect Costs: % Base	\$0
11. Total (Share: Recipient 0.00 % Federal 100.00 %.)	\$138,000
12. Total Approved Assistance Amount	\$138,000
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$16,000
15. Total EPA Amount Awarded To Date	\$138,000

## SITE 103R: PORTLAND HARBOR

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$0
2. Fringe Benefits	\$0
3. Travel	\$1,810
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$103,190
7. Construction	\$0
8. Other	\$0
9. Total Direct Charges	\$105,000
10. Indirect Costs	\$0
11. Total (Share: Recipient 0.00 % Federal 100.00 %.)	\$105,000
12. Total Approved Assistance Amount	\$105,000
13. Program Income	\$0

## SITE 10P9: MCCORMICK AND BAXTER

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$0
2. Fringe Benefits	\$0
3. Travel	\$1,930
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$26,070
7. Construction	\$0
8. Other	\$0
9. Total Direct Charges	\$28,000
10. Indirect Costs	\$0
11. Total (Share: Recipient 0.00 % Federal 100.00 %.)	\$28,000
12. Total Approved Assistance Amount	\$28,000
13. Program Income	\$0

SITE 103RMA02: GASCO/NW NATURAL

<b>Table A - Object Class Category (Non-construction)</b>	<b>Total Approved Allowable Budget Period Cost</b>
<b>1. Personnel</b>	\$0
<b>2. Fringe Benefits</b>	\$0
<b>3. Travel</b>	\$60
<b>4. Equipment</b>	\$0
<b>5. Supplies</b>	\$0
<b>6. Contractual</b>	\$4,940
<b>7. Construction</b>	\$0
<b>8. Other</b>	\$0
<b>9. Total Direct Charges</b>	\$5,000
<b>10. Indirect Costs</b>	\$0
<b>11. Total (Share: Recipient 0.00 % Federal 100.00 %.)</b>	\$5,000
<b>12. Total Approved Assistance Amount</b>	\$5,000
<b>13. Program Income</b>	\$0

## **Administrative Conditions**

### **1. General Terms and Conditions - Effective 01/27/2016**

The recipient agrees to comply with the current EPA general terms and conditions available at:

[http://www.epa.gov/sites/production/files/2016-01/documents/general\\_tc\\_as\\_of\\_1-27-16.pdf](http://www.epa.gov/sites/production/files/2016-01/documents/general_tc_as_of_1-27-16.pdf).

These terms and conditions are in addition to the assurances and certifications made as part of the award and terms, conditions or restrictions cited below.

The EPA repository for the general terms and conditions by year can be found at:

<http://www2.epa.gov/grants/grant-terms-and-conditions>.

### **2. General Terms and Conditions - Consultant Cap - Additional Information**

In addition to the General Terms and Conditions #6 "Consultant Cap", as of January 1, 2016, the limit is \$614.48 per day \$76.81 per hour.

**NOTE:** For future years' limits, the recipient may find the annual salary for Level IV of the Executive Schedule on the following Internet site: <http://www.opm.gov/oca>. Select "Salary and Wages", and select "Rates of Pay for the Executive Schedule". The annual salary is divided by 2087 hours to determine the maximum hourly rate, which is then multiplied by 8 to determine the maximum daily rate.

### **3. General Terms and Conditions – Cybersecurity**

The recipient agrees to comply with the current EPA general terms and conditions "Cybersecurity". The terms and conditions can be found on the EPA Grants Terms and Conditions Website.

For STATE:

[http://www2.epa.gov/sites/production/files/2015-07/documents/state\\_grant\\_cyber\\_security\\_condition.pdf](http://www2.epa.gov/sites/production/files/2015-07/documents/state_grant_cyber_security_condition.pdf).

For TRIBE:

[http://www2.epa.gov/sites/production/files/2015-07/documents/tribal\\_grant\\_cyber\\_security\\_condition.pdf](http://www2.epa.gov/sites/production/files/2015-07/documents/tribal_grant_cyber_security_condition.pdf).

For Other Recipients:

[http://www2.epa.gov/sites/production/files/2015-07/documents/cyber\\_security\\_grant\\_condition\\_for\\_other\\_recipients.pdf](http://www2.epa.gov/sites/production/files/2015-07/documents/cyber_security_grant_condition_for_other_recipients.pdf).

### **4. General Terms and Conditions – Final Federal Financial Report (FFR) – Region 10 Requirement "Annual and Final Report"**

Pursuant to 2 CFR 200.327 and 200.343, EPA recipients must submit an annual and final Federal Financial Report (FFR, SF-425). The annual report is due within 30 days after the end of each specified reporting period and the final report is due within 90 calendar days after the end of the project period.

The form is available on the internet at: <http://www2.epa.gov/financial/forms>. All FFRs must be submitted to the Las Vegas Finance Center (LVFC) via email [LVFC-grants@epa.gov](mailto:LVFC-grants@epa.gov) or fax at 702-798-2423.

The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms of the closeout of the assistance agreement.

### **5. General Terms and Conditions - Indirect Costs Not Included (All Organizations)**

In addition to the General Terms and Conditions "Indirect Cost Rate Agreements", the cost principles of 2 CFR 200 Subpart E are applicable to this award. Since there are no indirect costs included in the assistance budget, they are not allowable under this Assistance Agreement.

### **6. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MBE/WBE)**

**GENERAL COMPLIANCE, 40 CFR, Part 33**

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33.

**REPORTING PROVISION**

MBE/WBE reporting is required annually for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the "Other" category, that exceed the threshold amount of \$150,000, including amendments and/or modifications.

Based on EPA's review of the planned budget, this award does not meet the condition above and is not subject to the reporting requirements of the Disadvantaged Business Enterprise (DBE) Program. However, if during the performance of the award the total of all funds expended for direct procurement by the recipient and procurement under subawards or loans in the "Other" category exceeds \$150,000, annual reports will be required in accordance with the reporting paragraph below and you are required to notify your grant specialist for additional instructions.

The recipient also agrees to request prior approval from EPA for procurements that may activate DBE Program reporting requirements.

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in effect, including the Good Faith Efforts requirements as described in 40 CFR Part 33 Subpart C and Fair Share Objectives negotiation as described in 40 CFR Part 33 Subpart D and explained below.

**MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E**

When required, MBE/WBE reports must be submitted annually. The recipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" report (EPA Form 5700-52A) on an annual basis. All procurement actions are reportable, not just that portion which exceeds \$150,000.

When completing the annual report, recipients are instructed to check the box titled "annual" in section 1B of the form. For the final report, recipients are instructed to check the box indicated for the "last report" of the project in section 1B of the form. Annual reports are due by October 30<sup>th</sup> of each year. Final reports are due by October 30<sup>th</sup> or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on total procurements. Recipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at [http://www.epa.gov/osbp/dbe\\_reporting.htm](http://www.epa.gov/osbp/dbe_reporting.htm)

**SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C**

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

(c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

## **CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302**

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

## **BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)**

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

## **FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D**

### **1. For Grant Awards \$250,000 or Less**

This assistance agreement is a Technical Assistance Grant (TAG); or the award amount is \$250,000 or less; or the total dollar amount of all of the recipient's financial assistance agreements from EPA in the current Federal fiscal year is \$250,000 or less. Therefore, the recipient of this assistance agreement is exempt from the fair share objective requirements of 40 CFR, Part 33, Subpart D, and is not required to negotiate fair share objectives/goals for the utilization of MBE/WBEs in its procurements.

### **2. For Recipients Accepting Goals**

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements as described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

### **Accepting the Fair Share Objectives/Goals of Another Recipient**

The dollar amount of this assistance agreement, or the total dollar amount of all of the recipient's financial assistance agreements in the current federal fiscal year from EPA is \$250,000, or more. The recipient accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA. The Region 10 fair share objectives/goals can be found: [http://www.epa.gov/osbp/pdfs/r10\\_fair\\_share\\_goals.pdf](http://www.epa.gov/osbp/pdfs/r10_fair_share_goals.pdf).

By signing this financial assistance agreement, the recipient is accepting the fair share objectives/goals and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market.

### **Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404**

The recipient has the option to negotiate its own MBE/WBE fair share objectives/goals. If the recipient wishes to negotiate its own MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The submission of proposed fair share goals with the supporting analysis or disparity study means that the

recipient is **not** accepting the fair share objectives/goals of another recipient. The recipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

### **3. For Recipients with Established Goals**

The recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

#### **Current Fair Share Objective/Goal**

The dollar amount of this assistance agreement or the total dollar amount of all of the recipient's financial assistance agreements in the current federal fiscal year from EPA is \$250,000, or more. The Region 10 fair share objectives/goals can be found: [http://www.epa.gov/osbp/pdfs/r10\\_fair\\_share\\_goals.pdf](http://www.epa.gov/osbp/pdfs/r10_fair_share_goals.pdf).

#### **Negotiating Fair Share Objectives/Goals**

In accordance with 40 CFR, Part 33, Subpart D, established goals/objectives remain in effect for three fiscal years unless there are significant changes to the data supporting the fair share objectives. The recipient is required to follow requirements as outlined in 40 CFR Part 33, Subpart D when renegotiating the fair share objectives/goals.

### **Region 10 DBE Coordinator**

Andrea Bennett at (206) 553-1789 or email: [Bennett.Andrea@epa.gov](mailto:Bennett.Andrea@epa.gov). The coordinator can answer any MBE/WBE reporting questions you may have. MBE/WBE reports should be sent to the EPA Region 10, Grants and Interagency Agreements Unit, 1200 Sixth Avenue, Suite 900, OMP-173, Seattle, WA 98101 or FAX to (206) 553-4957.

## **Programmatic Conditions**

Condition number is REVISED:

### **4. Revised Work Plan**

Work under this agreement should be completed in accordance with the approved work plans submitted with the applications dated **01/06/2006, 01/10/2007, and revised workplan dated 12/07/2007 with the addendum email dated 02/04/2008 from Julie Kane, and application dated 03/27/2015 and 02/16/2016.**

All Other Programmatic Conditions Remain the Same

**END OF DOCUMENT**